

PUBLIC UTILITIES COMMISSION

505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298



April 18, 2006

VIA ELECTRONIC FILING

Ms. Marlene Dortch, Secretary
Federal Communications Commission
445 12th Street, SW - Portals II, TW-A325
Washington, DC 20554

Re: *Ex parte* Letter from the California Public Utilities Commission in
CC Docket No. 94-129, Policies and Rules Concerning Unauthorized
Changes of Consumers' Long Distance Carriers (Rural LECs' Petition for
Declaratory Ruling regarding Carrier Change Verification).

Dear Ms. Dortch:

Pursuant to Rule 1.1206(b)(1) of the Federal Communications
Commission rules, enclosed for filing in the above-docketed proceeding
is an electronic original of the **EX PARTE COMMENTS OF THE
CALIFORNIA PUBLIC UTILITIES COMMISSION AND OF THE
PEOPLE OF THE STATE OF CALIFORNIA.**

If you have any questions concerning this matter, please contact me at 415-
355-5524. Thank you.

Sincerely,

/s/ Christopher Witteman

Christopher Witteman
Staff Counsel

CW:jmc

cc: Commissioners
General Counsel Randolph Wu
Asst. General Counsel, Lionel Wilson

BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

In the matter of:

Policies and Rules Concerning
Unauthorized Changes of
Consumers' Long Distance
Carriers

Petition of Rural Exchange
Carriers for Declaratory Ruling
Regarding Carrier Change
Verification

CC Docket No. 94-129

**EX PARTE COMMENTS OF THE CALIFORNIA
PUBLIC UTILITIES COMMISSION AND OF THE
PEOPLE OF THE STATE OF CALIFORNIA**

The California Public Utilities Commission and the People of the State of California (CPUC or California) submit these ex parte comments to the Federal Communications Commission (FCC or Commission) in response to the FCC's Notice in this docket,¹ requesting comments on the Application for Review ("Application") filed on July 8, 2005 pursuant to 47 CFR 1.115 by a group of 38 rural local exchange carriers ("RLECs").² The CPUC was not able to file these comments within the time period set out in the Federal

¹ 71 Fed. Reg 5338 (February 1, 2006).

² The RLECs are identified in Appendix A of the Application.

Register, due to the short comment period and the need to achieve consensus in-house pursuant to established CPUC guidelines.

The RLECs' Application asks for reconsideration and review of the Declaratory Ruling of the Acting Chief, Consumer & Governmental Affairs Bureau, with a release date of June 9, 2005 ("Declaratory Ruling"), issued in response to the RLECs' original February 1, 2005 Petition for Declaratory Ruling ("Petition"). The RLECs' Petition requested a ruling that the RLECs be allowed to "reject [presubscribed interexchange carrier] PIC change requests from [interexchange carriers] IXC's ... where the name and telephone number on the request do not match the information on the LEC's records as to the name of the subscriber ... or person authorized by the subscriber to make changes to the account."³ The FCC initially denied that request by its Declaratory Ruling, but did so without the benefit of public comment or submission of evidence.

The CPUC believes that the reception of further comment and evidence at this time may assist the FCC to more fully address the subscriber intent problem, particularly as it relates to telemarketer sales.

Recommendation: The CPUC agrees with NASUCA's comment that the FCC and consumers would be well-served by the gathering of further data on these questions. CPUC Staff has in fact encountered problems

similar to those described by the Rural LECs.⁴ Among the questions that the FCC might usefully ask to inform its decisionmaking might be the following:

³ Petition at 3; Declaratory Ruling, par. 1.

⁴ The FCC has noted that “States have valuable insight into the slamming problems experienced by consumers.” Third Report and Order, 15 FCC Rcd 15996; 2000 FCC LEXIS 4269; 21 Comm. Reg. (P & F) 1179. In the Interim, Iowa and NASUCA have filed comments supporting the Rural LECs.

- a. How do the RLECs (and LECs generally) receive PIC change orders from IXC's and resellers? What information is on the CARE (customer automated record exchange) or other system used for such transmissions? Is the person authorizing the change identified in addition to the subscriber?;
- b. How many PIC change orders contain authorizing names that are in fact different from the subscriber's name?⁵ How many of that subset later result in PIC disputes or slamming allegations? Is the PIC dispute rate for non-subscriber initiated changes greater than when the subscriber initiates the change?
- c. What problems are posed for the gathering of customer experience data when PIC disputants – i.e., those alleging they were slammed – do not speak English as a primary language?
- d. Do the RLECs, and LECs generally, have in place mechanisms whereby the subscriber can quickly authorize a spouse, family member or third party to make changes in his or her home service? Do the RLECs, and LECs generally, have in place mechanisms allowing for the quick resubmission and/or correction of rejected orders? Are there other mechanisms in place to prevent anti-competitive conduct by the RLECs, and LECs generally?

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⁵ As used in this context, “subscriber” means the person whose name is on the bill or account.

Any grant or partial grant of the Rural LECs' Petition should be conditioned on there being in place sufficient safeguards against anti-competitive conduct on the part of the RLECs and LECs generally.

Respectfully submitted,

RANDOLPH L. WU
LIONEL B. WILSON
CHRISTOPHER WITTEMAN

/s/ CHRISTOPHER WITTEMAN

CHRISTOPHER WITTEMAN

505 Van Ness Ave.
San Francisco, CA 94102
Phone: (415) 703-1319
Fax: (415) 703-4592

Attorneys for the
Public Utilities Commission
State Of California

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